

SC NAACP v. Alexander,
D.S.C. Case No. 3:21-cv-03302-MGL-TJH-RMG

EXHIBIT 4

Brenda C. Murphy
The South Carolina State Confvs.McMaster/Alexander

August 8, 2022

Page 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE DISTRICT OF SOUTH CAROLINA
3 COLUMBIA DIVISION
4 THE SOUTH CAROLINA STATE
5 CONFERENCE OF THE NAACP

6 and

7 TAIWAN SCOTT, ON BEHALF OF HIMSELF
8 AND ALL OTHER SIMILARLY SITUATED
9 PERSONS,

10 Plaintiffs,

11 vs. Case No. 3:21-CV-03302-MGL-TJH-RMG

12 THOMAS C. ALEXANDER, IN HIS OFFICIAL
13 CAPACITY AS PRESIDENT OF THE SENATE;
14 LUKE A. RANKIN, IN HIS OFFICIAL CAPACITY
15 AS CHAIRMAN OF THE SENATE JUDICIARY
16 COMMITTEE; MURRELL SMITH, IN HIS OFFICIAL
17 CAPACITY AS SPEAKER OF THE HOUSE OF
18 REPRESENTATIVES; CHRIS MURPHY, IN HIS
19 OFFICIAL CAPACITY AS CHAIRMAN OF THE HOUSE
20 OF REPRESENTATIVES JUDICIARY COMMITTEE;
21 WALLACE H. JORDAN, IN HIS OFFICIAL CAPACITY
22 AS CHAIRMAN OF THE HOUSE OF REPRESENTATIVES
23 ELECTIONS LAW SUBCOMMITTEE; HOWARD KNAPP,
24 IN HIS OFFICIAL CAPACITY AS INTERIM
25 EXECUTIVE DIRECTOR OF THE SOUTH CAROLINA
STATE ELECTION COMMISSION; JOHN WELLS,
JOANNE DAY, CLIFFORD J. EDLER, LINDA MCCALL,
AND SCOTT MOSELEY, IN THEIR OFFICIAL
CAPACITIES AS MEMBERS OF THE SOUTH CAROLINA
STATE ELECTION COMMISSION,

Defendants.

DEPOSITION OF: BRENDA C. MURPHY
(Via Videoconference)

DATE: Monday, August 8, 2022

TIME: 10:00 a.m.

LOCATION: 6111 North Main Street
Columbia, South Carolina

1 against each other in certain districts.

2 MR. INGRAM: Objection.

3 THE WITNESS: It depends on how the
4 lines are drawn. And we were doing it in such a
5 manner that we were in terms of not minimizing the
6 influence of the Black voter.

7 BY MR. TYSON:

8 Q. No, I understand that. You were -- you
9 were looking at the Black voters and you were
10 looking at race, and that was a factor that you used
11 in drawing your maps. Right?

12 A. That's right, in order to be able to
13 be -- for Black voters to be able to -- be able to
14 at least have some influence on who is elected,
15 whether it's a Black person or a White person, but
16 have some influence on a person of choice for their
17 community.

18 Q. And I understand that position strongly.
19 Let's just be clear on this. Race was a factor --
20 race was a factor that the NAACP used in drawing its
21 maps. Right?

22 A. To minimize the impact on the ability of
23 Black people to influence the selection -- the
24 person of choice.

25 Q. And so that was real important to you

1 and the NAACP. Right?

2 A. Yes.

3 Q. And it was more important to make sure
4 that the lines were drawn, that race was used in a
5 way that it even might be at the expense of looking
6 at some of these traditional criteria, right, like
7 splitting and contiguous and compact and cores of
8 interest?

9 MR. INGRAM: Objection.

10 THE WITNESS: Okay. Would you ask that
11 question again?

12 BY MR. TYSON:

13 Q. Yeah. I'm just trying to -- I'm not
14 trying to make an argument or trying to be in an
15 argument, but I think we are speaking the same way.
16 Race was used in a way by the NAACP maps to draw its
17 districts. Correct?

18 A. Yes.

19 Q. And some of that resulted potentially in
20 not -- in having -- making race at a higher priority
21 than some of these other nonracial criteria --

22 MR. INGRAM: Objection.

23 BY MR. TYSON:

24 Q. -- compactness, contiguous, contiguity.
25 Does that make sense?

1 A. Yeah. But keep in mind the Voting
2 Rights Act, Section 2. That's something we also
3 considered. Okay?

4 Now, you don't have to -- in terms of
5 being able to influence what happens to you in your
6 community, you know, when you look at BVAPs it
7 doesn't have to be a higher BVAP, because maybe the
8 person that you want to represent you may not always
9 be a Black person, but at least you get a
10 blurry-free vote.

11 Q. I'm not -- like I said, Ms. Murphy, I
12 wasn't arguing with you. I just wanted to make sure
13 we were on the same page about that.

14 You just mentioned the Voting Rights
15 Act. There is not a Voting Rights Act Section 2
16 claim in this complaint, though, is there?

17 A. Well, you know, I think the thing -- we
18 have to consider the constitution in terms of how --
19 and making sure we are in compliance. So when it
20 comes to the Voting Rights Act, you know, we have to
21 look at Section 2. And I understand what you're
22 saying. But my point is, if we are not saying
23 that -- we are not asking that the BVAP be
24 50 percent or greater, you know, it may be 25
25 percent and that community still can influence who

1 represents them in that area.

2 Q. Yes, ma'am. I understand there are some
3 constitutional challenges, but when you made that
4 reference I just wanted to make sure, again, we were
5 on the same page, that a Section 2 Voting Rights Act
6 claim is not in the complaint.

7 A. Okay.

8 Q. All right. I have got about maybe ten
9 or fifteen more minutes this morning. Is that okay
10 or do you want a break?

11 MR. INGRAM: Can we take a five-minute
12 break?

13 MR. TYSON: Yeah, let's do that, and
14 then we will go through this. There is probably
15 fifteen more minutes before finishing up, but let's
16 take a five-minute break.

17 THE WITNESS: Okay.

18 (Break In Proceedings)

19 BY MR. TYSON:

20 Q. Ms. Murphy, I have got, I thought, ten
21 or fifteen minutes, but I think I'm only going to
22 have about five more minutes of questions because I
23 think the second round of questions is probably
24 better over in the 30(b)(6) part than in this part.

25 But let me just make sure that we are on

1 the -- that we were speaking the same. When an
2 issue comes up and I have an opinion on it, I have
3 texted my representative or called my representative
4 and my senator just to give them my two cents. And
5 so I was asking you earlier, have you contacted your
6 senator or your House member to give them your
7 opinions? And if I heard you, you said no, you
8 didn't because you didn't want to look like you were
9 being partisan or that you were trying to influence
10 the process. Is that right?

11 A. Yes.

12 Q. Okay. How about other members of the
13 NAACP? Do you know whether they contacted their
14 various representatives and senators to provide
15 their input on Congressional redistricting?

16 A. I was -- I can only say that they were
17 highly discouraged from doing that. We were
18 reminded several occasions we are nonpartisan, and
19 so this process should be done in that manner.

20 Q. And so they were encouraged not to
21 participate in the process?

22 A. No. No. Not to contact their
23 representatives regarding the process.

24 Q. Just to participate in the -- in the --

25 A. Hearings.

1 Q. All right. But to stay away from any
2 personal contact with them.

3 A. Correct.

4 MR. TYSON: All right. Let's go to,
5 Antonio, what was marked in the book as Exhibit 20,
6 and we will mark it as Exhibit 3.

7 (Senate Exhibit No. 0003, 9-30-21 SC State Conference
8 NAACP Reapportionment Coalition Meeting Minutes, was
9 marked)

10 MR. INGRAM: I will let you know once it
11 loads.

12 Got it.

13 BY MR. TYSON:

14 Q. It's a September 30, 2021 document. Do
15 you see that?

16 A. Yes.

17 Q. Okay. And it's Reapportionment
18 Coalition Meeting Minutes. Correct?

19 A. Yes.

20 Q. Okay. Down there at the bottom, just
21 the last paragraph where it's titled "Update on
22 Plenary," do you see that?

23 A. Yes.

24 Q. What was that about, that Attorney
25 Cusick -- what does that sentence mean, that first

1 sentence that Reverend Moore -- that he stated
2 something, what does that mean? I will let you read
3 it.

4 A. Okay. Reverend Moore was one of the LDF
5 trainers. And I guess he -- that was Moore still
6 training, that's all.

7 Q. Okay. And what does that mean, "to
8 strengthen branch members in challenging areas?"

9 A. I don't know if that terminology is
10 correct, because at this point we had not talked
11 about challenging. I think he maybe was saying in
12 terms of strengthening their ability to challenge,
13 if there was an area, with testimony. You know, I
14 think it is just in terms of with testimony and
15 challenges. Oh. That was just preparation. We had
16 not -- no, we had not identified any areas.

17 Q. I read this to just say that it looked
18 like that there were challenging areas with
19 testimonial challenges, that maybe there were some
20 branches that didn't have folks that were testifying
21 or speaking on some of their challenges. That's
22 kind of how I read it, not a legal challenge. Is
23 that right?

24 A. No, no, no. Those basically were
25 scenarios that were presented to help them in terms

1 of being able to articulate what the challenges
2 were.

3 Q. Then how about the next sentence, what
4 did he say?

5 A. "He needs communication support and
6 assistance to remind and encourage -- "to come out."
7 That sentence?

8 Q. Yes, ma'am.

9 A. Oh, that's basically that they need to
10 be branch members. Not just the officers need to
11 participate in the process. So branch -- you know,
12 we were preparing branch leaders to be able to share
13 information with their members, in terms of
14 encouraging them to participate.

15 Q. And then the next sentence, what does
16 that say? What is that talking to?

17 A. Which one? Aiden (sic)?

18 Q. The one that starts off "Attorney
19 Aiden."

20 A. "spoke about the model testimony."

21 Q. Yes.

22 A. "model testimony and demographic
23 profiles." That was just information sharing.
24 That's still all it was, just information sharing.

25 Q. So it looks like Attorney Aiden prepared

1 or is talking about model testimony for the branch
2 members to use. Right?

3 A. No. No. They were not -- no. As I
4 said, they had scenarios that they were working on.

5 Q. Who is "they"?

6 A. The trainers. That was Moore, Cusick.

7 Q. Well, what does it mean to "model
8 testimony"?

9 A. I don't know. I guess you would have to
10 ask her about that. I don't know if that
11 terminology is correct or not. But I know the only
12 thing that they were doing was looking at
13 scenarios -- kind of, members were reflecting how
14 they might respond. And just training.

15 Q. And then the last sentence of that
16 paragraph talks about that you sent out these
17 information and training documents three times this
18 week. Right?

19 A. Yeah. Yes.

20 Q. So you were doing a lot to make sure
21 that your members and your branches participated in
22 the process. Right?

23 A. Yes.

24 Q. And is it fair to say that they did
25 participate in the process, based on your training

1 and your educational materials?

2 A. Yes.

3 Q. Two paragraphs below that it talks about
4 "Identification of Prospective Plaintiffs." What
5 does that mean?

6 A. I'm not for sure what that says. I
7 guess she is saying, you know, basically, there is
8 lack of timeliness. This is President Williams, in
9 the Orangeburg area, just in terms of getting public
10 information about meetings.

11 Q. Yeah, but what about the prospective
12 plaintiffs? What is that?

13 A. "in low public participation from the
14 community perspective." It says: "It is critical
15 to keep communities informed with transparent,
16 up-to-date, and timely notifications about meetings,
17 sessions, mapping, and public input information."

18 And I guess this was basically her
19 perception, that they were not getting timely
20 notices about -- and I guess this is when -- what
21 date is on that?

22 Q. September the 3rd. But it was your
23 desire, too, to go out and find prospective clients
24 at this time. Right?

25 A. To do what?

1 Q. To go out and find prospective
2 plaintiffs for a lawsuit.

3 MR. INGRAM: Objection.

4 THE WITNESS: No. No, that is not
5 correct. No.

6 BY MR. TYSON:

7 Q. You weren't trying to identify potential
8 plaintiffs?

9 A. No. No.

10 Q. Well, let's read the next sentence,
11 then, "Update From the Desk of President," where it
12 says: "President Murphy" --

13 A. Just a moment.

14 "Should it become necessary. Boykin and
15 Aiden discussed negative and historical backlash
16 against people testifying during litigation risks
17 outside of the norm."

18 Q. Yeah, but the first sentence says:
19 "President Murphy reported she and the PAG would go
20 through identified areas to discuss and identify
21 potential plaintiffs from those areas." Right?
22 That's what it says.

23 A. I don't know that that actually
24 happened. It didn't, actually.

25 Q. But this was done on September the 30th,

1 and that was done before a lawsuit was filed.

2 Right?

3 A. No. I think you're mixing words here.
4 This is training. This is training. They are
5 working with individuals in the community. They
6 know who are the -- who has the skill level. Some
7 people don't have the skill level to testify, if
8 they were needed. So as they trained, if there was
9 a need for litigation then they could have
10 identified those persons. But in actuality, at this
11 point no one was identified. And as you see, I
12 guess Attorney Boykin and Aden talk about the
13 negative and historical backlash against people
14 testifying and believe, you know, that is something
15 that may impact on people being willing to testify.

16 Q. I understand. I'm just reading the
17 words. It said: President Murphy reported she was
18 out trying to discuss and identify potential
19 plaintiffs from those areas.

20 And so my question, it doesn't qualify
21 it at all about if it shall be necessary. My
22 question to you was -- you were looking for a
23 plaintiff to file a lawsuit is what that reads.
24 Right?

25 A. That is not true, sir. We had no reason

1 to file a lawsuit at this point.

2 Q. Well, that's what I was getting to. How
3 in the world would you even know how to file a
4 lawsuit? Because the Congressional plan hadn't been
5 done. So that's why I just want to make sure --

6 A. Okay.

7 Q. -- that this group wasn't looking for
8 plaintiffs before the lawsuit was even -- before a
9 map was even drawn. You would agree that's
10 improper, isn't it?

11 MR. INGRAM: Objection.

12 THE WITNESS: No.

13 BY MR. TYSON:

14 Q. It's not improper to find a plaintiff --

15 A. I'm saying --

16 Q. Hold on, Ms. Murphy. I don't want to
17 speak over you, but I'm asking, would it be improper
18 for you try to go find a plaintiff and potential
19 litigation and you don't even know what the
20 Congressional map looks like? Is that not improper?

21 A. If I did that, yes.

22 Q. Well, this says you did.

23 A. No, I did not, sir.

24 Q. So you're saying that you didn't do what
25 this report -- well, what the assistant secretary,

1 how he reported the minutes?

2 A. No, I did not.

3 Q. And the next two sentences by Attorney
4 Boykin and Attorney Aiden, they are discussing about
5 the problems that one might have if they are going
6 to be plaintiffs because they might be called to
7 testify during litigation. Right?

8 A. Well, let me say something to you. The
9 thing is, we were talking about the challenges if
10 anybody was to serve -- was needed to serve as a
11 plaintiff because of the historical challenges in
12 the past. And I think that is part of that in terms
13 of the training that has been done. And if there
14 was a need for a plaintiff to be a part of
15 litigation, then that was just some of the
16 challenges that they would be faced with because of
17 some of the fears from the past.

18 Q. Let me ask you something, Ms. Murphy.
19 You have now testified at a deposition -- I think
20 this is at least your third or your fourth time.
21 Have you had any negative or historic backlash
22 because you have testified? Have you had any
23 backlash because you are the president of the NAACP
24 and are testifying about litigation -- in this
25 litigation?

1 A. Right now?

2 Q. Yes, ma'am.

3 A. In the past? Maybe not directly, but
4 indirectly, yes.

5 Q. I'm talking about this litigation. Not
6 in the past. I'm talking about now.

7 A. Well, when you look at the date on this,
8 we are talking pre-litigation.

9 Q. Yeah. That's why you're going out and
10 it says you're looking for plaintiffs. It says
11 you're trying to look for --

12 A. Sir, I can only say that what is
13 reflected there is not truly what was the intent.
14 And I know what my intent was. And we were not
15 thinking about litigation prior to maps, because how
16 in the world could we think about litigation --
17 well, maybe we should think about litigation because
18 of what has happened in the past, but it was not
19 looking for plaintiffs for this case.

20 Q. Well, I just want to make sure we are on
21 the same page, because that would be improper for
22 you to try to go find plaintiffs.

23 A. I understand exactly what you're saying,
24 and I'm telling you that was not the intent.

25 Q. No, I heard you say that. But I'm

1 asking the question because that would be improper
2 for you to go find plaintiffs in a district --

3 A. Sir, I have heard --

4 Q. Hold on, Ms. Murphy. Let me finish my
5 question. Because you don't even know what the
6 districts are going to look like, so you couldn't
7 find a plaintiff.

8 A. Sir, you have said that several times.
9 And I have told you that is not my intent. That was
10 not my intent. Because I did not know what the maps
11 were going to look like. And if there was
12 litigation, it would have been related to the
13 failure of the maps to be drawn in September or
14 earlier because there was no time to truly react to
15 the maps.

16 MR. TYSON: Well, I was just trying to
17 make sure I understood what those words on the paper
18 said. And I appreciate you answering my question.

19 Ms. Murphy, I'm going to end my part
20 right here of the personal part. And I don't know
21 if the House or the Election defendants have any
22 questions that they want to ask, but I appreciate
23 you answering my questions.

24 THE WITNESS: Okay. You're welcome.

25 MS. HOLLINGSWORTH: Thank you,

1 Mr. Tyson.

2 I'm Jennifer Hollingsworth on behalf the
3 House, and I think it makes sense that I will
4 reserve my questions for the 30(b)(6) deposition.

5 MR. TYSON: Jane, are you still on?

6 MS. TRINKLEY: Yes. I have no
7 questions. Thank you, Ms. Murphy.

8 THE WITNESS: You're welcome.

9 MR. TYSON: All right. Madam Court
10 Reporter, that ought to finish the first deposition.

11 MR. INGRAM: Wait. Sorry.

12 MR. TYSON: Sorry. Excuse me, Antonio.

13 MR. INGRAM: I may have redirect. Give
14 me five minutes to look at my notes. I may have
15 some redirect.

16 MR. TYSON: Okay. But you didn't say
17 you were going to talk to Ms. Murphy. I missed what
18 you said.

19 MR. INGRAM: No. I said I may have some
20 redirect if you will give me five minutes to look at
21 my notes.

22 MR. TYSON: Gotcha. Thank you. We will
23 see you in five minutes.

24 CROSS-EXAMINATION

25 BY MR. INGRAM:

1 Q. So President Murphy, I just have a
2 question for you on redirect.

3 Earlier, in today's deposition when
4 Mr. Tyson asked you what congressional district you
5 resided in, you said you reside in Congressional
6 District 2. Is it possible that you misspoke?

7 A. Congressional District -- oh, yeah. I'm
8 sorry. I live -- it's in Congressional District 6.
9 I'm sorry. Yeah.

10 MR. INGRAM: No problem. Thanks for
11 clarifying. That is all my questions.

12 MR. TYSON: Madam Court Reporter, we
13 will go off the record and finish this one.

14 (The deposition was concluded at 12:15 p.m.)

15 (The deponent does not waive reading and signing of
16 this deposition)

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CERTIFICATE OF REPORTER

I, Elaine L. Grove-DeFreitas, Certified
Shorthand Reporter and Notary Public for the State of
South Carolina at large, do hereby certify that the
foregoing transcript is a true, accurate and complete
record.

I further certify that I am neither
related to nor counsel for any party to the cause
pending or interested in the events thereof.

WITNESS MY HAND, I have hereunto
affixed my official seal this day of 2022 at
Greenville County, South Carolina.



ELAINE L. GROVE-DEFREITAS

Certified Shorthand Reporter

My Commission Expires 6/22/2030

Brenda C. Murphy
The South Carolina State Confvs.McMaster/Alexander

August 8, 2022

Page 87

1 Jennifer Hollingsworth

2 jhollingsworth@nexsenpruet.com

3 August 19, 2022

4 RE: South Carolina State Conference Of The NAACP And Scott,
Taiwan v. McMaster, Henry, Et Al.

5 8/8/2022, Brenda C. Murphy (#5340046)

6 The above-referenced transcript is available for
7 review.

8 Within the applicable timeframe, the witness should
9 read the testimony to verify its accuracy. If there are
10 any changes, the witness should note those with the
11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of
13 Deponent and Errata and return to the deposing attorney.
14 Copies should be sent to all counsel, and to Veritext at
15 cs-carolinas@veritext.com.

16
17 Return completed errata within 30 days from
18 receipt of testimony.

19 If the witness fails to do so within the time
20 allotted, the transcript may be used as if signed.

21
22 Yours,

23 Veritext Legal Solutions
24
25

Brenda C. Murphy
The South Carolina State Confvs.McMaster/Alexander

August 8, 2022

Page 88

1 South Carolina State Conference Of The NAACP And Scott, Taiwan
v. McMaster, Henry, Et Al.

2 Brenda C. Murphy (#5340046)

3 E R R A T A S H E E T

4 PAGE_____ LINE_____ CHANGE_____

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6 REASON_____

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21 REASON_____

22 _____

23 _____

24 Brenda C. Murphy Date

25

Brenda C. Murphy
The South Carolina State Confvs.McMaster/Alexander

August 8, 2022

Page 89

South Carolina State Conference Of The NAACP And Scott, Taiwan
v. McMaster, Henry, Et Al.

Brenda C. Murphy (#5340046)

ACKNOWLEDGEMENT OF DEPONENT

I, Brenda C. Murphy, do hereby declare that I
have read the foregoing transcript, I have made any
corrections, additions, or changes I deemed necessary as
noted above to be appended hereto, and that the same is
a true, correct and complete transcript of the testimony
given by me.

Brenda C. Murphy

Date

*If notary is required

SUBSCRIBED AND SWORN TO BEFORE ME THIS

_____ DAY OF _____, 20____.

NOTARY PUBLIC